

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

GEORG F. REISINGER and	)	
NEW CHINA FACTORIES LIMITED	)	
	)	
Plaintiffs,	)	Civil Action No. 07CV6417
	)	
v.	)	Honorable Ruben Castillo
	)	
SAS GROUP INC.,	)	
	)	JURY TRIAL DEMANDED
Defendant.	)	

**JOINT STATUS REPORT**

This case is set for a status hearing on February 5 at 9:45 a.m.

**A. Nature of the Case**

1. Bases for jurisdiction, nature of the claims and counterclaims: The amended complaint alleges patent infringement under Title 35, United States Code (Count I), copyright infringement under Title 17, United States Code (Counts II and III), and unfair competition under Title 15, United States Code (Count IV). Defendant has counterclaimed for non-infringement, invalidity and unenforceability of the patent and copyrights at issue.

Subject matter jurisdiction arises under 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331, 1338(a) and (b), 2201 and 2202.

2. Relief sought by plaintiff, including computation of claimed damages, if available: Plaintiffs seek damages and an injunction for patent infringement under 35 U.S.C. §§ 154(d), 283, 284, and 285; an injunction, impoundment, damages/profits, and fees for copyright infringement under 17 U.S.C. §§ 501-505; and an injunction and damages/profits and destruction under 15 U.S.C. §§ 1116-1118.

Plaintiffs lack sufficient knowledge to compute damages. They estimate, however, that the defendant has sold approximately 1.5 million units of the accused product at a price of about \$22.50 since being placed on notice.

3. Names of any parties that have not been served: There are no unserved parties.

4. Major legal issues: patent infringement, patent invalidity and unenforceability copyright infringement, copyright invalidity and unenforceability and unfair competition.

5. Major factual issues: Whether the accused product infringes claims of United States Patent No. 7,108,595 entitled “Apparatus for the Manual Sharpening of the Blades of Cutting Tools” (the ‘595 patent); whether the ‘595 patent is invalid and unenforceable, whether the instruction sheet sold with the product infringes plaintiff Reisinger’s copyright; whether Plaintiffs’ alleged copyright is invalid and unenforceable, whether the accused product infringes the trade dress of plaintiffs’ product; whether Plaintiffs are entitled to trade dress protection, and whether Plaintiffs are entitled to any damages and profits earned by the defendant from the accused activities.

6. Citations to key authorities which will assist the Court in understanding and ruling on the issues: Regarding patent infringement, *Philips v. AWH Corp.*, 415 F.3d 1303, 1314-15 (Fed. Cir. 2005) (*en banc*); *KSR International Co., v. Teleflex Inc.*, 127 S.Ct. 1727 (2007); and *In re Seagate*, 497 F.3d 1360 (Fed. Cir. 2007).

Regarding copyright infringement, *Spinmaster, Ltd. v. Overbreak LLC*, 404 F.Supp.2d 1097 1102-1105 (N.D. Ill. 2005); *Pivot Point Int’l, Inc. v. Charlene Prods., Inc.*, 372 F.3d 913 (7th Cir. 2004) and *Incredible Technologies v. Virtual Technologies*, 400 F.3d 1007, 1012 (7<sup>th</sup> Cir. 2005).

Regarding unfair competition, *Logan Graphic Products, Inc. v. Textus USA, Inc.*, 2002 U.S. Dist. LEXIS 24547 (N.D. Ill. December 23, 2002) and *Thomas & Betts Corp. v. Panduit Corp.*, 138 F.3d 277 (7th Cir. 1998), *cert denied*, 525 U.S. 929 (1998).

#### **B. Preparation of Draft Scheduling Order**

<b>Plaintiffs’ Date</b>	<b>Defendant’s Date</b>	<b>ACTION</b>
5/2/08	5/2/08	To join other parties and amend pleadings
8/29/08	12/12/08	Complete all non-expert discovery and discovery regarding claim construction.
9/30/08	1/9/09	Confer in an effort to narrow claim construction issues.
10/21/08	1/30/09	Concurrently submit initial memoranda regarding claim construction.

11/11/08	2/20/09	Parties to concurrently submit reply memoranda regarding claim construction.
Same	To be set by Court	<i>Markman</i> claim construction hearing.
10/30/08	Thirty (30) days after entry of the Court's Order regarding claim construction (party with burden)	Serve Fed.R.Civ.P. Rule 26(a)(2) expert reports on issues for which the party bears the burden of proof.
11/03/08	Sixty (60) days after entry of the Court's Order regarding claim construction (Rebuttal)	Serve rebuttal expert reports.
12/12/08	Ninety (90) days after entry of the Court's Order regarding claim construction	Complete all expert discovery.
2/01/09	One hundred twenty (120) days after entry of the Court's order regarding claim construction	File all dispositive pretrial motions and memoranda of law, including any motion to strike an expert report or affidavit.
Same	To be set by the Court	File pretrial stipulations and <i>motions in limine</i> .
Same	To be set by the Court	Proposed pretrial conference date.
Same	To be set by the Court	Proposed trial date.

### C. Trial Status

1. Whether or not a jury has been requested: Both parties request a trial by jury.
2. Probable length of the trial: Plaintiffs estimate one week. Defendant estimates one to two weeks. Both estimates include jury selection.

**D. Consent to Proceed Before a Magistrate Judge:** All parties have not yet consented.

**E. Settlement Status:** No discussions as yet. Plaintiffs are preparing a settlement demand which is based solely on information available without the benefit of discovery.

Respectfully submitted,

Georg F. Reisinger and  
New China Factories Limited

/s/ Joseph N. Hosteny

Joseph N. Hosteny  
Arthur A. Gasey  
Niro, Scavone, Haller and Niro  
181 West Madison Street, Suite 4600  
Chicago, Illinois 60602  
Phone: (312) 236-0733  
hosteny@nshn.com  
gasey@nshn.com

Respectfully submitted,

SAS Group, Inc.

/s/ David M. Dolendi

David M. Dolendi  
Locke Lord Bissell & Liddell LLP  
111 S. Wacker Drive  
Chicago, IL 60606  
Phone: 312.443.0202  
DDolendi@lockelord.com

Glenn T. Henneberger (*pro hac vice  
pending*)

Hoffmann & Baron, LLP  
6900 Jericho Turnpike, Suite 200  
Syosset, New York 11791  
Phone: (516) 822-3550  
gthdocket@hoffmannbaron.com

**CERTIFICATE OF SERVICE**

A copy of this Joint Status Report was filed electronically on Friday, February 1, 2008. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. A courtesy copy was delivered to Room 2146. A copy also was served by facsimile on Friday, February 1, 2008 on:

David M. Dolendi  
Locke Lord Bissell & Liddell LLP  
111 S. Wacker Drive  
Chicago, IL 60606  
Phone: 312.443.0202  
Fax: 312.896.6202  
DDolendi@lockelord.com

Glenn T. Henneberger (*pro hac vice pending*)  
Hoffmann & Baron, LLP  
6900 Jericho Turnpike, Suite 200  
Syosset, New York 11791  
Phone: (516) 822-3550  
Fax: 516-822-3582  
gthdocket@hoffmannbaron.com

/s/ Joseph N. Hosteny